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OFFICE OF PETITIONS

In re Application of	:	
Maus, et al.	:	
Application No. 10/694,816	:	DECISION ON PETITION
Filed: October 29, 2003	:	
Attorney Docket No. 1024943-000056	:	

This is a decision on the petition, filed April 22, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that this application became abandoned on February 27, 2008, for failure to submit the issue fee and publication by February 26, 2008, as was required by the November 26, 2007 Notice of Allowance and Fee(s) Due. A Notice of Abandonment was mailed on March 25, 2008.

On February 25, 2008 applicants filed a PTOL-85b fee transmittal. Applicants authorized the Office to charge all required fees to applicants' deposit account. However, through inadvertent mistake, a deposit account number was not provided on the PTOL-85b.

Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b) MPEP 1306


It is clear that applicants intended to pay the issue fee from a brief glance at the PTOL-85b. Several general authorizations to pay fees are present in the application file. Therefore, the Office should have charged the issue fee and publication fee to the deposit account listed in the application file.

Accordingly, the holding of abandonment is **withdrawn**, the March 25, 2008 Notice of Abandonment is **vacated**, and the petition under 37 CFR 1.181 is **granted**. No petition fee has been or will be charged in connection with this matter.

The issue fee of \$1,440.00 and the publication fee of \$300.00 will be charged to deposit account no. 02-4800.

After the mailing of this decision, the application file will be forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.


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Office of Petitions